UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,662	05/04/2001	Venkata N. Padmanabhan	MS164164.2	8985

			EXAMINER
27195	7590	08/30/2006	PATEL, ASHOKKUMAR B

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ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 August 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See continuation sheet..</u>

12. ☐ Note the attached Information Disclosure Statement(s): (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

/JOHN FOLLANSBEE/
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation sheet:

NOTE: This correspondence will be entered for purposes of appleal.

Applicant's argument:

1. Reiection of Claims 1-41 Under 35 U.S.C. § 102(e)

Claims 1 and 7-11:

"Anderson et al. provides no further details as to what these latency calculations are and how they are used anywhere in the specification or drawings. Specifically, there is no mention or suggestion of a transmission time delay measurement from the host to a computer system along a network path that includes at least one intermediate node."

Examiner's response:

Please refer to previously cited col. 8, line 14-31 for the *teachings "at least one intermediate network node."*

Anderson's teachings at col. 17, line 42-53 of "Latency calculations" has to be construed as being the missing descriptive matter which is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. (MPEP § 2112 (IV)).

Also, it would be so recognized by persons of ordinary skill when Anderson clearly elucidates at col. 16, line 21-35, "As illustrated in FIG. 2, the analysis module 28 includes a collection of blocking algorithms 63, a unified mapping process 61, and a consolidated domains algorithm 65. FIGS. 9A and 9B show a flowchart illustrating a method 70, **according to an exemplary embodiment of the present invention, of tiered estimation of the geolocation associated with a network address.**

Specifically the tiered estimation of a geolocation employs a number of exact processes

and, if the exact processes fail, a number of inexact processes. **In an alternative**

embodiment of the present invention, no distinction is made between exact and

inexact processes (as shown in FIG. 11), and all processes are regarded as being

located on a common tier. The method 70 is performed by the analysis module 28,

and employs each of the algorithms 61, 63 and 65."

Please refer to Link et al. (US 6, 012, 096) and Vanlint (US 6, 922, 417) for

latency calculations.

Claim 12:

Applicant's argument:

"Specifically, the cited art is silent regarding measuring a delay time relating to a

transmission from the computer system to receipt of the transmission at the Internet

host along a network path that includes at least one intermediate host."

Examiner's response:

Please refer to the response provided for claim 1.

Claim 27:

Applicant's argument:

"A dispersion metric is a measure of statistical variability of members of a

population. Accordingly, Anderson et al. fails to teach or suggest computing a

dispersion metric representative of the accuracy of the location estimate of the location

of the Internet host."

Examiner's response:

Claim 27 recites "computing a dispersion metric representative of the accuracy of the location estimate of the location of the Internet host."

Anderson defines its "geographic location" at col. 7, line 64-col. 8, line 9 as being "For the purposes of the present specification, the term "geographic location" shall be taken to refer to any geographic location or area that is identifiable utilizing any descriptor, metric or characteristic. The term "geographic location" shall accordingly be taken to include a continent, a country, a state, a province, a county, a city, a town, village, an address, a Designated Marketing Area (DMA), a Metropolitan Statistical Area (MSA), a Primary Metropolitan Statistical Area (PMSA), location (latitude and longitude), zip or postal code areas, and congressional districts. Furthermore, the term "location determinant" shall be taken to include any indication or identification of a geographic location."

Anderson also teaches at col. 23, line 47-52, "The unified mapping process 61 further constructs **a list of possible physical locations for a given network address,** and from this list, through fuzzy logic and **statistical methodologies,** returns a location with a set of associated probabilities that provide an indication regarding the accuracy of that location."